

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
NEW BERN DIVISION**

IN RE:)
)
PATRICK ONEAL HEATH,) **Case No. 17-06083-5-JNC**
) **Chapter 12**
Debtor.)

MOTION TO ALLOW REJECTION OF UNEXPIRED LEASES

COMES NOW Patrick Oneal Heath (the “Debtor”), by and through counsel, and pursuant to 11 U.S.C. § 365 and Bankruptcy Rule 6006 respectfully submits this motion for the Court’s Order allowing it to reject certain unexpired leases, and in support thereof, shows unto the Court as follows:

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).

2. The Court has authority to hear this matter pursuant to the General Order of Reference entered by the United States District Court for the Eastern District of North Carolina on August 3, 1984.

3. The Debtor, Patrick Oneal Heath, filed a voluntary petition seeking relief under Chapter 12 of the Bankruptcy Code on December 14, 2017 (the “Petition Date”).

4. The Debtor is in the business of farming corn, wheat, and soybeans in and around Jones and Lenoir County, North Carolina.

5. On or about June 4, 2015, the Debtor executed and delivered to Farm Credit Leasing Services Corporation (“FCLS”) Lease Agreement 001-0071609-000 (the “Lease”).

6. FCLS is, upon information and belief, a subsidiary of CoBank, a member of the Farm Credit System.

7. Pursuant to the Lease, FCLS leased to Debtor and Debtor leased from FCLS a 2015 Trinity Eagle Trailer, bearing vehicle identification number 1T9SC4828FB656078 (“Trailer 78”) and a 2015 Trinity Eagle Trailer, bearing vehicle identification number 1T9SC4821FB656079 (“Trailer 79”) (collectively, the “equipment”).

8. Trailer 79 was damaged in a collision on June 13, 2017 and was declared a total

loss. The Debtor did not obtain replacement equipment.

9. The equipment is not necessary for the Debtor's successful reorganization.

10. The Debtor in his business judgment believes it is in the best interest of the estate to reject the Lease in its entirety.

WHEREFORE, the Debtor prays unto the Court as follows:

1. That the Debtor be allowed to reject the Lease, and that said Lease be deemed rejected; and

2. For such other and further relief as the Court may deem just and proper.

This the 16th day of January, 2018.

DAVID F. MILLS, P.A.
Attorney for the Debtor
1559-B Booker Dairy Rd.
Smithfield, NC 27577
Telephone: (919) 934-7235
Facsimile: (919) 989-1529

By: /s/ David F. Mills
David F. Mills
State Bar No: 18326

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NOTICE OF MOTION

NOTICE IS HEREBY GIVEN of the MOTION TO ALLOW REJECTION OF UNEXPIRED LEASE with Lessor, Farm Credit Leasing Services (the "Motion") whereby the Debtor seeks authority to reject a certain Equipment Operating Lease Agreement; and

FURTHER NOTICE IS HEREBY GIVEN that this Motion may be allowed provided no responses and request for a hearing is made by a party in interest in writing to the Clerk of this Court within **FOURTEEN (14) DAYS** from the date of this notice; and

FURTHER NOTICE IS HEREBY GIVEN, that if a response and a request for a hearing is filed by a party in interest in writing within the time indicated, a hearing will be conducted on this Motion thereto at a date, time and place to be later set by the Court and all interested parties will be notified accordingly. If no request for a hearing is timely filed, the Court may rule on the Motion *ex parte* without further notice.

DATED: January 16, 2018.

DAVID F. MILLS, P.A.
Attorney for the Debtor
1559-B Booker Dairy Rd.
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CERTIFICATE OF SERVICE

I, David F. Mills, Attorney at Law, 1559-B Booker Dairy Road, Smithfield, North Carolina 27577, certify that I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age; and that on the 16TH day of January, 2018, I served a copy of the Motion to Allow Rejection of Unexpired Leases on the following as shown:

VIA CM/ECF

Richard Sparkman
Chapter 12 Trustee

VIA FIRST CLASS MAIL

Patrick Oneal Heath
2705 Hatteras Drive
Pink Hill, NC 28572

VIA FIRST CLASS MAIL

Farm Credit Leasing Services Corp.
ATTN: Officer/Managing Agent
600 Hwy. 169 S., Suite 300
Minneapolis, MN 55426

I certify under penalty of perjury that the foregoing is true and correct.

This the 16th day of January, 2018.

DAVID F. MILLS, P.A.
Attorney for the Debtor
1559-B Booker Dairy Rd.
Smithfield, NC 27577
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